

ASSEMBLY BILL

No. 2012

Introduced by Assembly Member Lieu

February 17, 2010

An act to amend Section 597 of the Penal Code, relating to cruelty to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 2012, as introduced, Lieu. Cruelty to animals.

Existing law provides, subject to exceptions, that every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is guilty of a crime punishable as a misdemeanor or as a felony, or alternatively as a misdemeanor or a felony and a fine of not more than \$20,000.

This bill would revise the punishment for this offense to provide that it is punishable by imprisonment in a county jail for not more than one year, or in the state prison, or by a fine of not more than \$20,000, or by both that fine and imprisonment. The bill would make other technical, nonsubstantive changes.

By revising the penalty for an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 597 of the Penal Code is amended to
2 read:

3 597. (a) Except as provided in subdivision (c) of this section
4 or Section 599c, every person who maliciously and intentionally
5 maims, mutilates, tortures, or wounds a living animal, or
6 maliciously and intentionally kills an animal, is guilty of ~~an offense~~
7 ~~punishable by imprisonment in the state prison, or by a fine of not~~
8 ~~more than twenty thousand dollars (\$20,000), or by both the fine~~
9 ~~and imprisonment, or, alternatively, by imprisonment in a county~~
10 ~~jail for not more than one year, or by a fine of not more than twenty~~
11 ~~thousand dollars (\$20,000), or by both the fine and imprisonment~~
12 ~~a crime punishable pursuant to subdivision (d).~~

13 (b) Except as otherwise provided in subdivision (a) or (c), every
14 person who overdrives, overloads, drives when overloaded,
15 overworks, tortures, torments, deprives of necessary sustenance,
16 drink, or shelter, cruelly beats, mutilates, or cruelly kills any
17 animal, or causes or procures any animal to be so overdriven,
18 overloaded, driven when overloaded, overworked, tortured,
19 tormented, deprived of necessary sustenance, drink, shelter, or to
20 be cruelly beaten, mutilated, or cruelly killed; and whoever, having
21 the charge or custody of any animal, either as owner or otherwise,
22 subjects any animal to needless suffering, or inflicts unnecessary
23 cruelty upon the animal, or in any manner abuses any animal, or
24 fails to provide the animal with proper food, drink, or shelter or
25 protection from the weather, or who drives, rides, or otherwise
26 uses the animal when unfit for labor, is, ~~for every such~~ *each*
27 offense, guilty of a crime punishable ~~as a misdemeanor or as a~~
28 ~~felony or alternatively punishable as a misdemeanor or a felony~~

1 ~~and by a fine of not more than twenty thousand dollars (\$20,000)~~
2 ~~pursuant to subdivision (d).~~

3 (c) Every person who maliciously and intentionally maims,
4 mutilates, or tortures any mammal, bird, reptile, amphibian, or
5 fish, as described in subdivision ~~(d)~~ (e), is guilty of ~~an offense~~
6 ~~punishable by imprisonment in the state prison, or by a fine of not~~
7 ~~more than twenty thousand dollars (\$20,000), or by both the fine~~
8 ~~and imprisonment, or, alternatively, by imprisonment in the county~~
9 ~~jail for not more than one year, by a fine of not more than twenty~~
10 ~~thousand dollars (\$20,000), or by both the fine and imprisonment~~
11 ~~a crime punishable pursuant to subdivision (d).~~

12 (d) A violation of subdivision (a), (b), or (c) is punishable by
13 imprisonment in a county jail for not more than one year, or in
14 the state prison, or by a fine of not more than twenty thousand
15 dollars (\$20,000), or by both that fine and imprisonment.

16 ~~(d)~~

17 (e) Subdivision (c) applies to any mammal, bird, reptile,
18 amphibian, or fish which is a creature described as follows:

19 (1) Endangered species or threatened species as described in
20 Chapter 1.5 (commencing with Section 2050) of Division 3 of the
21 Fish and Game Code.

22 (2) Fully protected birds described in Section 3511 of the Fish
23 and Game Code.

24 (3) Fully protected mammals described in Chapter 8
25 (commencing with Section 4700) of Part 3 of Division 4 of the
26 Fish and Game Code.

27 (4) Fully protected reptiles and amphibians described in Chapter
28 2 (commencing with Section 5050) of Division 5 of the Fish and
29 Game Code.

30 (5) Fully protected fish as described in Section 5515 of the Fish
31 and Game Code.

32 This subdivision does not supersede or affect any provisions of
33 law relating to taking of the described species, including, but not
34 limited to, Section 12008 of the Fish and Game Code.

35 ~~(e)~~

36 (f) For the purposes of subdivision (c), each act of malicious
37 and intentional maiming, mutilating, or torturing a separate
38 specimen of a creature described in subdivision ~~(d)~~ (e) is a separate
39 offense. If any person is charged with a violation of subdivision

(c), the proceedings shall be subject to Section 12157 of the Fish and Game Code.

~~(f)~~

(g) (1) Upon the conviction of a person charged with a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, all animals lawfully seized and impounded with respect to the violation by a peace officer, officer of a humane society, or officer of a pound or animal regulation department of a public agency shall be adjudged by the court to be forfeited and shall thereupon be awarded to the impounding officer for proper disposition. A person convicted of a violation of this section by causing or permitting an act of cruelty, as defined in Section 599b, shall be liable to the impounding officer for all costs of impoundment from the time of seizure to the time of proper disposition.

(2) Mandatory seizure or impoundment shall not apply to animals in properly conducted scientific experiments or investigations performed under the authority of the faculty of a regularly incorporated medical college or university of this state.

~~(g)~~

(h) Notwithstanding any other provision of law, if a defendant is granted probation for a conviction under this section, the court shall order the defendant to pay for, and successfully complete, counseling, as determined by the court, designed to evaluate and treat behavior or conduct disorders. If the court finds that the defendant is financially unable to pay for that counseling, the court may develop a sliding fee schedule based upon the defendant's ability to pay. An indigent defendant may negotiate a deferred payment schedule, but shall pay a nominal fee if the defendant has the ability to pay the nominal fee. County mental health departments or Medi-Cal shall be responsible for the costs of counseling required by this section only for those persons who meet the medical necessity criteria for mental health managed care pursuant to Section 1830.205 of Title 7 of the California Code of Regulations or the targeted population criteria specified in Section 5600.3 of the Welfare and Institutions Code. The counseling specified in this subdivision shall be in addition to any other terms and conditions of probation, including any term of imprisonment and any fine. This provision specifies a mandatory additional term of probation and is not to be utilized as an

1 alternative in lieu of imprisonment in the state prison or county
2 jail when ~~such a~~ *that* sentence is otherwise appropriate. If the court
3 does not order custody as a condition of probation for a conviction
4 under this section, the court shall specify on the court record the
5 reason or reasons for not ordering custody. This subdivision shall
6 not apply to cases involving police dogs or horses as described in
7 Section 600.

8 SEC. 2. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.